REPLY BRIEF

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Michael J. Rojas	**Examiner:**	Rutao Wu
Serial No:	09/808,436	**Art Unit:**	3628
Filed:	March 14, 2001	**Docket:**	13463

For: METHOD AND PROGRAMMABLE DEVICE FOR TELECOMMUNICATIONS APPLICATIONS

Confirm No.: 3775 **Dated:** July 2, 2007

Mail Stop Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

Appellant respectfully submits this Reply Brief in response to the Examiner's Answer dated May 3, 2007.

REPLY TO EXAMINER'S ARGUMENT

(A) Saari Does Not Disclose "classifying the detected data packets based on source and destination address"

The Examiner contends that Saari discloses "classifying the detected data packets based on the source and destination address". The Examiner and appellant agree that Saari discloses that each billing cell is provided with one of two service classes. However, Saari merely discloses dividing billing cells into two service classes, real-time and non-real-time; a billing cell is either real-time or non-real-time, and to insure this, a default service class is set (column 12, lines 34-38). Placing the billing cell into one class or the other is simple, requiring

only one if-then, or conditional, programming statement. By contrast, classifying data packets requires more than just one conditional statement.

Accordingly, the technique disclosed by Saari would not result in the classification of the data packets based on source and destination IP address. Saari places each billing cell into one of two groups; if the cell is not in the first group, e.g., real-time, then it is in the second group, e.g., non-real-time. This process would not result in classification of data packets based on source and destination IP address, because only two groups of billing cells can be established using Saari's disclosed process. Consequently, it would not be obvious to use the source and destination IP address to classify data packets in Saari's system. Conversely, appellant's method is not applicable to Saari. Appellant classifies data packets based on source and destination IP address. Hence, multiple classifications are made on a case by case basis, instead of Saari's single choice between real time or non-real time service classes. Further, no user selection of service class occurs in appellant's method.

Even assuming, *arguendo*, that Saari's technique of dividing the billing cells into one of two groups discloses "classifying" the data packets, Saari does not disclose classifying the data packets based on source and destination IP address. While Saari provides a list of possible factors that may be used as variables within a usage charging formula, Saari does not teach or suggest that source and destination IP address could be used as one of these factors. Merely disclosing the existence of a source and/or destination IP address does not suggest classifying the data packets based on source and destination IP address. Moreover, the billing cell as disclosed by Saari includes only a billing address. Saari does not disclose or suggest that this billing address include either a source or destination IP address. There is no indication that either the

source or the destination of the billing cell determines who will be billed. Hence, nothing in the billing cell necessarily includes either source or destination IP address.

Therefore, there is no support for the Examiner's statement that "This disclosure taken together with col 12 lines 34-38 as cited above can be seen [sic] that Saari et al classifies detected data packets based on the source and destination address." (Examiner's Answer, page 7, lines 20-22.) Thus, Saari does not disclose "classifying the detected data packets based on source and destination address."

(B) Saari Does Not Disclose "assigning the classified data packets to a network user"

The Examiner alleges that Saari teaches "assigning the classified data packets to a network user" because without assigning the data packets, Saari would not be able to properly charge the user, making the invention non-functional. The Examiner states that since variables such as service class type can be used as usage charging formula, and the user needs to set the service class type with the operator, it can clearly be seen that Saari assigns the classified data packet to a network user.

Appellant respectfully disagrees. A user's setting of a service class with the operator does not disclose or suggest that a billing cell is assigned to that user. Further, the user setting the service class may not be a network user. For example, the user setting the service class could be a system administrator, who sets the service class remotely, and the billing cell could be assigned to an account administrator.

At most, Saari discloses assigning a billing cell to a billing address, not to a network user. For purposes of billing users, Saari teaches a billing address established in advance of the

transmission of data. By contrast, in appellant's inventive system, a source and destination IP address is used by the system in accordance with a charging procedure and the transmitted data packet is assigned to a network user. Therefore, Saari does not disclose or suggest "assigning the classified data packet to a network user".

(C) References Do Not Disclose "a filtering process"

The Examiner maintains that Scheitzer teaches "wherein the costing step d) includes a filtering process to exclude certain predetermined data packets from the costing step". The Examiner argues that Scheitzer's teaching of merging data records eliminates predetermined data packets, such as redundant packets. Appellant respectfully disagrees. Scheitzer discloses, "Generally, data records are passed through the merger program, in the CEM 170, into the central database 175. However, the data records are also cached so that if matching records appear at some point, the already stored records can be replaced or enhanced with the new records ... A merge is achieved by matching some of the fields in a data record and then merging the matching records from at least two record flows, transforming them into one record before updating the central database 175." (column 9, lines 26-36) Accordingly, using the merging process disclosed by Scheitzer, no data records are excluded; at best, already stored records are replaced or enhanced. Thus Scheitzer does not disclose or suggest "a filtering process to exclude certain predetermined data packets".

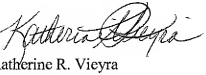
(D) Conclusion

Based on the above arguments and remarks, Appellant respectfully submits that the claims of the instant invention on appeal are not anticipated or obvious in light of Saari and Scheitzer, either individually or in combination. Consequently, the rejections of the claims based on such references are in error. In view of the remarks submitted hereinabove and in Appellant's

Appeal Brief, the references applied against Claims 1-7 on appeal do not render those claims anticipated under 35 U.S.C. § 102(e) or unpatentable under 35 U.S.C. § 103(a). Thus, Appellants submit that both the § 102 and the §103 rejections are in error and must be reversed.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment in connection herewith to Deposit Account No. 19-1013/SSMP.

Respectfully submitted,



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